

1984 WL 249878 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

May 2, 1984

*1 The Honorable Joseph F. Anderson, Jr.
Member
House of Representatives
Box 507
Edgefield, South Carolina 29824

Dear Representative Anderson:

This is in response to your request for an opinion as to whether there is a conflict of interest where a member of the Edgefield County Council is employed as a Case Manager by the Edgefield County Senior Citizens Council under its Job Training Partnership Act Program.

The Senior Citizens Council administers various programs using funds disbursed by the Governor's Office. Though County Council provides no funds for the Job Training Partnership Act Program, it does provide funds for other Senior Citizens Council programs. Pursuant to the contract between the Senior Citizens Council and the Governor's Office, a Senior Citizens Council employee is prohibited from participating in any decision relating to the contract which affects his personal monetary interest.

The contract provision is similar to a provision of the South Carolina Code which prohibits a public official from taking action or making a decision which would substantially affect directly his personal financial interest. [Section 8-13-460, Code of Laws of South Carolina \(Cum. Supp. 1983\)](#). The contract addresses actions of a Senior Citizens Council employee, while the Code addresses actions of a County Council member. Though addressing the issue from different perspectives, the harm sought to be prohibited is the same.

[Section 8-13-460](#) prohibits action by a public official which would substantially affect directly his personal financial interest. It is conceivable that a matter involving the finances of the Senior Citizens Council might substantially affect directly the personal financial interest of one of its employees; thus, a County Council member employed by the Senior Citizens Council should avoid taking action or making a decision regarding the finances of the Senior Citizens Council. This is in accord with the purpose of [§ 8-13-460](#). See also [§ 8-13-410](#).

Of course, nothing prohibits a County Council member from employment with the Senior Citizens Council; however, [Section 8-13-460](#) outlines the steps to be taken in the event a Senior Citizens Council matter comes before the County Council. The Council member with the conflict must prepare a written statement describing the matter requiring action and the nature of the conflict. [Section 8-13-460\(a\)](#). A copy of such statement must be furnished to the presiding officer and the members of the County Council. The member in question must be excused from any votes, deliberations or other actions on the matter. The statement, the fact of his disqualification, and the reasons therefore shall all be noted in the Council minutes. [§ 8-13-460\(c\)](#). The State Ethics Commission in Opinion No. 83-035 has opined that, in addition to being disqualified from deliberations and voting, the member should completely remove himself from the meeting location when such matters are being discussed. See also, Opinions No. 83-033 and 83-029. Compliance with the above-stated provisions also satisfies the requirements of the contract between the Senior Citizens Council and the Governor's Office.

*2 In summary, there is no conflict of interest where a County Council member is employed by an organization receiving partial funding from County Council, provided he complies with the provisions of [Section 8-13-460](#), as well as any other relevant provision of the Ethics Act.

Sincerely,

James P. Hudson
Staff Attorney

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